

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

JANELLE M. KOSTIDIS,

Plaintiff,

v.

AMERICAN FAMILY MUTUAL
INSURANCE COMPANY, S.I.,

Defendant.

CAUSE NO.: 2:23-CV-6-TLS-JPK

OPINION AND ORDER

This matter is before the Court on a Notice of Voluntarily Dismissal of Counts III and IV of Complaint [ECF No. 3], filed on January 6, 2023. The Seventh Circuit Court of Appeals has explained that the proper procedure for dismissal of individual parties or claims is by the amendment of pleadings under Federal Rule of Civil Procedure 15(a) and not by dismissal under Federal Rule of Civil Procedure 41(a). *Taylor v. Brown*, 787 F.3d 851, 857–58, 858 n.9 (7th Cir. 2015) (explaining that “Rule 15(a) allows a plaintiff to amend his complaint—including by adding or dropping parties and claims—as a matter of right in some situations and by court order in others” and reminding district courts to use Rule 15(a) rather than Rule 41(a) for dismissal of individual claims); *see also* 6 Fed. Prac. & Proc. Civ. § 1479 (3d ed.).

Federal Rule of Civil Procedure 15(a)(1) provides that “[a] party may amend its pleading once as a matter of course within . . . 21 days after serving it.” Fed. R. Civ. P. 15(a)(1). The Notice of Removal provides that the Defendant was served with the Complaint on December 27, 2022. ECF No. 1, ¶ 3. Thus, the time period for the Plaintiff to amend the Complaint as a matter of course has not expired.

Accordingly, the Court STRIKES the Notice of Voluntarily Dismissal of Counts III and IV of Complaint [ECF No. 3]. The Plaintiff may drop the claims in Counts III and IV by filing an amended complaint as a matter of course under Rule 15(a).

SO ORDERED on January 9, 2023.

s/ Theresa L. Springmann

JUDGE THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT